

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

TYRONE E. REID,

:

Petitioner,

Case No. 3:05-cv-326

:

-vs-

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

ERNIE L. MOORE, Warden,

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Respondent.

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**REPORT AND RECOMMENDATIONS ON MOTION FOR JUDGMENT ON THE  
PLEADINGS**

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This habeas corpus case is before the Court on Petitioner's Motion for Judgment on the Pleadings under Fed. R. Civ. P. 12(c) (Doc. No. 49).

The Motion is internally contradictory in that it asks for an evidentiary hearing but asserts that judgment can be granted on the basis of the pleadings alone. More importantly, judgment has already been entered in this case in favor of Respondent and a motion under Fed. R. Civ. P. 12(c) cannot appropriately be brought after judgment.

The Motion for Judgment on the Pleadings should be denied.

February 4, 2009.

s/ **Michael R. Merz**  
United States Magistrate Judge

## NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6<sup>th</sup> Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).